

1 Consumers must receive reliable, efficient, high quality  
2 services. Third, we're looking at mechanisms for providing  
3 assistance for research, development and implementation of  
4 technologies and programs specifically targeted to enable  
5 frail, elderly, disabled and other vulnerable consumers to  
6 have access to basic communication services.

7 Our hope is that the proposed merger could speed  
8 and promote innovation to the development of new services  
9 and enhanced product choices. This -- this is particularly  
10 important for the growing number of older persons using  
11 these advanced communications technologies.

12 When our analysis is completed at the end of this  
13 month, we will provide further details on the specific  
14 conditions that we believe will help to achieve these three  
15 objectives and promote the public interest. And  
16 accordingly, I anticipate that we will be filing ex parte  
17 written communications -- comments with the Commission.  
18 Thank you.

19 DR. KRATTENMAKER: Thank you, Mr. Bedlin. I know  
20 the Commissioners will be very anxious to receive that  
21 filing. So please --

22 MR. BEDLIN: Thank you.

23 DR. KRATTENMAKER: Thank you. Next on my list is  
24 Covad. Good afternoon.

25 MR. KOUTSKY: Good afternoon. Thank you for this

1 opportunity to comment here today. My name is Tom Koutsky,  
2 the Assistant General Counsel of Covad Communications  
3 Company. Covad is living proof that you don't need to have  
4 a market capitalization of 150 billion dollars and 200,000  
5 employees to participate in the global telecommunications  
6 market.

7 With only slightly more than 400 employees, we  
8 have deployed an advanced DSL services network that passes  
9 over 11 million homes and businesses throughout the country.  
10 Nevertheless, we are deeply concerned about ILEC attempts to  
11 undermine the fundamental principles of the Act. This  
12 merger is one of those attempts.

13 Unable to unchain themselves from a circuit-  
14 switched, band width-rationing mentality, these firms think  
15 they need a larger base of incumbent networks to support  
16 growth. They've gone down this path rather than do what is  
17 really needed, a fundamental restructuring that supports the  
18 deployment of open, competitive broad band networks.

19 As described by Mr. Sallet this morning, merger  
20 conditions come in two flavors, structural and behavioral.  
21 Covad believes in structural remedies, especially the  
22 separation of ILEC wholesale and retail operations. But if  
23 the applicants are unwilling to undertake the restructuring  
24 themselves and if the Commission and Wall Street are  
25 unwilling to undertake that restructuring for them,

Heritage Reporting Corporation  
(202) 628-4888

1 behavioral conditions may be able to achieve some of the  
2 benefits that a wholesale-retail split would provide.

3 First, the Commission must recognize that with  
4 regard to OSS, unbundled elements, co-location and  
5 interconnection provisioning, separate will never be equal.  
6 As long as CLECs use separate interfaces and order channels  
7 while the ILEC provides retail services through a different  
8 process, we will always be fighting battles as to whether  
9 the separate CLEC process is discriminatory or not.

10 As CLECs grow, the inherent unequal nature of  
11 these separate processes will also grow. Scale improvements  
12 in those processes will probably always lag ILEC investment  
13 in their own retail operations. Indeed, we just heard from  
14 Mr. Smith about one-day installation in Pacific Bell  
15 territory. Just try and order and receive an unbundled loop  
16 at the very next day.

17 The Commission could simply require applicants to  
18 use CLEC OSS and other whole-tail services in providing  
19 their own retail services, or applicants could be given a  
20 choice: Utilize the CLEC OSS for all of your retail orders  
21 or provide CLECs with a substantial discrimination discount  
22 off the price of UNES and co-location. The discrimination  
23 discount would compensate CLECs for the delay and cost that  
24 will inevitably result from that separate and unequal  
25 process.

1           Second, the Commission should require the posting  
2   of a substantial performance bond in the event that  
3   applicants' wholesale performance falls below commercially  
4   reasonable standards. Performance bonds are not new. In  
5   fact, performance bonds are common and commercial  
6   relationships where you have a demonstrably incompetent  
7   supplier.

8           This bond, perhaps used in conjunction with the  
9   FCC expedited complaint process, would compensate the FCC  
10   and competitive carriers for the cost in damages arising  
11   from any failure to comply with the Act. The bonds should  
12   be of sufficient magnitude that the merged entity would feel  
13   substantial financial pressure in the event that it does not  
14   come into compliance with current law.

15           A performance bond of such size would have the  
16   beneficial impact of creating an incentive for the  
17   applicants to come into compliance swiftly and completely.  
18   And we know and experience every day that these ILECs are  
19   not in current compliance with the law. Thank you for the  
20   opportunity to be heard today. And thank you for your  
21   attention to this matter.

22           DR. KRATTENMAKER: Thank you, Mr. Koutsky. Next  
23   on my list is Georgetown Partners. No one here from  
24   Georgetown Partners. Then the next on my list -- and I want  
25   to say it's the last on the list. So if anyone else was

Heritage Reporting Corporation  
(202) 628-4888

1 expecting to speak, please see Bill Dever or Michelle  
2 Carey -- is Keep America Connected.

3 MS. LEDFORD: Hi.

4 DR. KRATTENMAKER: Welcome. Hi.

5 MS. LEDFORD: Thank you for the opportunity to  
6 testify today. My name is Angela Ledford. I am the  
7 Executive Director of Keep America Connected. Keep America  
8 Connected is a diverse coalition of 45 organizations  
9 representing consumers, senior citizens, people with  
10 disabilities, rural citizens and labor, that work with local  
11 phone companies to advance policies that ensure affordable  
12 access to modern telecommunications services.

13 I've got a copy of a written statement here that I  
14 will supply for the record. But rather than go through  
15 that, there is just a couple of comments that I think are  
16 important to make. Earlier today, many of the members -- or  
17 a lot of the members and similar friends of Keep America  
18 Connected were here to support the Ameritech merger.

19 And I have to say that as they left to catch  
20 planes back home, they were very disturbed by some press  
21 reports that have come out about this hearing today.  
22 Understanding that the Commission does not control the  
23 headlines, I think there should be some attention paid to  
24 the impression that was left this morning.

25 The impression is really that the decisions were

1 already made about what was going to happen today. I think  
2 the people left here not feeling like they were heard. And  
3 I hope that the Commission will do everything possible to  
4 ensure that the voices that were -- that were alive here  
5 really -- that really do not believe that conditions are  
6 necessary will get taken into account rather than those  
7 voices that talked about the specific kinds of conditions  
8 they thought were necessary.

9 I think people had the right today to come in and  
10 question that premise. And I hope that it got heard.

11 The other thing that I think was -- I was struck  
12 by as I listened to other folks' testimony is I wondered if  
13 I was in a merger hearing or if I was in a de-regulation  
14 hearing. I -- the impression was definitely left that once  
15 this company has merged, if it was merged without condition,  
16 that the FCC and the state regulators cease any -- to have  
17 any control over the merged company.

18 And in fact, they'll still continue to set rates;  
19 the companies will still be bound by the 271 check list and  
20 by all the provisions of the Telecommunications Act. I  
21 raise those issues simply because what we have been  
22 encouraged by in our review of the merger is the commitment  
23 that SBC and Ameritech have shown to bring competition to  
24 any other parts of the country.

25 The -- the national-local strategy that they have

1 embarked on -- or that they have announced, they have  
2 already began to embark on by moving into Boston, Seattle  
3 and Miami, even before the merged company exists. And I  
4 can't help but compare the commitment and the actions of SBC  
5 and Ameritech to those of AT&T. The last few days, the  
6 business pages have been filled with news of AT&T's take-  
7 over of MediaOne. And I can't help but wonder why we  
8 weren't here during the Commission's review of AT&T and TCI.

9           The acquisition of MediaOne will make AT&T the  
10 largest telecom company and cable company in the country, as  
11 has been said before. Well, let's take a quick look at  
12 their record of serving residential customers.

13           Despite pledges to offer local telephone service,  
14 they have not moved into that market. They have completely  
15 stayed out of the market, while they are offering full  
16 packages of local, long distance and data services to their  
17 large business customers.

18           On the long distance side, AT&T continues to  
19 control nearly two-thirds of all residential long distance  
20 lines. But rather than reward those customers for their  
21 loyalty, they have imposed monthly minimums as heavy-handed  
22 inducements to increase their calling or find another  
23 carrier.

24           AT&T and the other long distance carriers have  
25 seen their cost of doing business go down as access charges

1 have dropped. But rather than pass those savings along,  
2 they have imposed new fees on their customers and only  
3 offered lower rates to the highest volume users.

4 SBC and Ameritech have been and continue to  
5 emphasize their service to residential customers. Their  
6 entrance into the long distance market is contingent on  
7 opening their network to competitors as a merged company or  
8 as separate companies. AT&T faces no such obligation to  
9 serve residential customers nor appears to have the  
10 inclination to serve residential customers, and certainly  
11 not to provide new and innovative broad band services to the  
12 residential marketplace.

13 Their strictly business focus as they grow into an  
14 increasingly dominant force in the marketplace should be  
15 more of a cause for concern than the SBC-Ameritech merger.

16 As the telecommunications marketplace continues to  
17 change, as it no doubt will at a tremendous rate over the  
18 next few years, we hope the chief concern for the FCC will  
19 be how to make sure advanced telecommunications services get  
20 delivered to the homes and to areas of countries that may be  
21 less profitable than the downtown corridors. The market  
22 will take care of the business customer.

23 Keep America Connected wants to make sure that the  
24 marketplace has substantial incentives to bring  
25 neighborhoods the latest in advanced telecommunications. We



1 believe the SBC-Ameritech merger will do that and we urge  
2 your approval. Thank you.

3 DR. KRATTENMAKER: Thank you. Before I wrap this  
4 up, I would like to see, is there anyone who was expecting  
5 to present who hasn't been able to? Okay. Then I might say  
6 two things I think before we -- three things really.

7 First of all, I would like to thank all of you for  
8 coming. And that includes the people who have been unable  
9 to stay until this point. I'm trying to speak to the people  
10 who did participate and then had to leave. We -- we really  
11 do appreciate that.

12 Secondly, I want again to offer on behalf of Bob  
13 Atkinson his apologies for not having been here for the last  
14 40 minutes. But it was sort of an unavoidable professional,  
15 not personal, emergency that -- that called him away.

16 And then -- and third, I think I might pick up a  
17 little bit on the theme that Ms. Ledford just suggested here  
18 at the end. Sometimes I think -- I've spent a lot of years  
19 in government, perhaps not enough. And sometimes I think  
20 that -- that the hardest part is that people assume that we  
21 write headlines in newspapers or maybe there's a better case  
22 to be made for a "Federal Headline Commission" than a  
23 Federal Communications Commission.

24 I don't know how many times this morning -- I  
25 guess I will have to go back and count it up -- that Bob

1     Atkinson, Tom Krattenmaker, Paul Mancini and Dick Hetke all  
2     said that this is a proceeding to talk about conditions.  
3     That doesn't mean that anybody has made up their mind on the  
4     legality of the merger.

5             If it will help, I will say it again. It's an  
6     awkward thing to do because when you talk about conditions,  
7     you always want to first go ahead and have the discussion  
8     about, well, is there any need for conditions. And you  
9     can't talk about what conditions might be appropriate unless  
10    you see what the problems might be.

11            Certainly, it was very -- to answer your question  
12    directly -- it was very appropriate for people to come in  
13    and say, "What I want to say about conditions is you don't  
14    need any because it's a perfectly good merger." But there  
15    is no question that if you have a forum at which you say  
16    let's assume that something might happen; let's talk about  
17    what would be a helpful condition; let's help educate the  
18    Commission staff on that, it's going to give the impression  
19    that the only issue left is conditions.

20            That's always been a risk of doing something like  
21    this, that you always run a risk when you open up for public  
22    input and public dialogue and public debate what would  
23    otherwise be secret governmental processes, seems to me to  
24    be a truism and it seems to me when you choose between  
25    either of those evils, it's a very easy which way to go.

1           But I will if -- if it will help to clarify that  
2 point -- say again what I believe is just a direct quote  
3 from something I said this morning. With respect to this  
4 merger, the staff has not reached a final conclusion. It  
5 has reached tentative conclusions which I explained. It has  
6 not reached a final conclusion. And it has made no  
7 recommendation to the Commission.

8           It has not made a final conclusion with respect to  
9 whether the merger should be approved or denied, with or  
10 without conditions. It has not made a recommendation to the  
11 Commission that the merger be denied or approved. It has  
12 not made a final conclusion with respect to any particular  
13 condition or any set of conditions.

14           And it has made no recommendation to the  
15 Commission with respect to any condition or any set of  
16 conditions.

17           It would have been a terrible thing for us to have  
18 come down here and asked for public input if we secretly had  
19 our mind made up on a bunch of conditions. We don't. We  
20 didn't. We appreciate your input. And with that, I turn it  
21 over to my colleague, Bob Atkinson, on whose behalf I just  
22 apologized for your absence.

23           MR. ATKINSON: And I do apologize. I just had to  
24 step away on another matter. This merger issue is not the  
25 only thing on our agenda, amazingly enough. So I do thank

1 everyone for coming. And I have found the comments today to  
2 be very helpful.

3 I have -- I think it has helped me understand some  
4 of the issues much better. And I found today's work effort  
5 to be very worthwhile. So I do thank everyone who did  
6 speak, to those speakers who are still here. And for those  
7 who have not -- who have left, we will send our regards. So  
8 thank you very much. And I guess that closes the  
9 proceedings.

10 DR. KRATTENMAKER: That closes the proceedings.  
11 Thank you.

12 MR. ATKINSON: Thank you.

13 (Whereupon, at 4:45 p.m. on Thursday, May 6, 1999,  
14 the hearing was concluded.)

15 //

16 //

17 //

18 //

19 //

20 //

21 //

22 //

23 //

24 //

25 //

**REPORTER'S CERTIFICATE**

FCC DOCKET NO.: N/A  
CASE TITLE: SBC - Ameritech Public Forum  
HEARING DATE: May 6, 1999  
LOCATION: Washington, D.C.

I hereby certify that the proceedings and evidence are contained fully and accurately on the tapes and notes reported by me at the hearing in the above case before the Federal Communications Commission.

Date: 5/6/99

Carla Anne Wright  
Official Reporter  
Heritage Reporting Corporation  
1220 "L" Street, N.W.  
Washington, D.C. 20005

**TRANSCRIBER'S CERTIFICATE**

I hereby certify that the proceedings and evidence were fully and accurately transcribed from the tapes and notes provided by the above named reporter in the above case before the Federal Communications Commission.

Date: 5/19/99

Bonnie Nieman  
Official Transcriber  
Heritage Reporting Corporation

**PROOFREADER'S CERTIFICATE**

I hereby certify that the transcript of the proceedings and evidence in the above referenced case that was held before the Federal Communications Commission was proofread on the date specified below.

Date: 5/20/99

Doreen Jones  
Official Proofreader  
Heritage Reporting Corporation

Heritage Reporting Corporation  
(202) 628-4888